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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,958	03/31/2004	Hartej Singh	42P18635	5882

7590 10/29/2007  
Jan Little-Washington  
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EXAMINER
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JAIN, RAJ K

ART UNIT	PAPER NUMBER
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2616

MAIL DATE	DELIVERY MODE
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10/29/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/813,958

Applicant(s)

SINGH ET AL.

Examiner

Raj K. Jain

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-10, 12-21 and 23-25 is/are rejected.
- 7) ☒ Claim(s) 4, 11, 22 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

Claims 1, 10, 16 and 19 are objected to because of the following informalities:

The subject claims recite here in part “...receiving a first value representing an allowed amount of target traffic”. Suggest rewording as “receiving an allowed amount of target traffic representing a first value”. Appropriate correction is required.

Furthermore, regarding claim 1, the last line is vague and indefinite “...dropping target traffic when a percentage of target traffic.” It is not clear what is being claimed. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 4 and 22 recite the limitation "the second generating" in line 1 and line 4 respectively. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3, 5-10, 12-16, 19-21 and 23-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Wu et al ( US 2004/0177087 A1).

Regarding claim(s) 1, 10, 16 and 19, Wu discloses a method, comprising: receiving a first value representing an allowed amount of target traffic (Fig. 5, TCP target rate in Kbps) and second value representing a time interval during which to receive the allowed amount of target traffic (Fig. 5, para 44, time in seconds to receive the target traffic), the first value and the second value defining a percentage of target traffic allowed through a port (ratio of target traffic or fair share of TCP vs UDP traffic in given time represents the percentage), the port having a port speed; and determining that port speed changed by a factor of N (Fig. 5, TCP rate varies based on the bandwidth of the bottleneck selected, para 44; scaling the second value by a factor of  $1/N$  (weights are adjusted periodically for a determined or dynamic interval, para 38), respectively; and based on the allowed amount of target traffic and the scaled second value, dropping target traffic when a percentage of target traffic (a drop profile is determined to drop packets as desired paras 7-14).

Regarding claim(s) 2, 5, 20, Wu discloses various port speeds (Fig. 5) and therefore different clocks).

Regarding claim(s) 3, 21, Wu discloses receiving the selected clock and incrementing a counter using the selected clock (para 39).

Regarding claim(s) 6, 12 and 23, Wu discloses comprising: comparing an amount of target traffic to the allowed amount of target traffic; and causing a status flag

Art Unit: 2616

to be set when the amount of target traffic and the allowed amount of target traffic are equal (para 34, various types of traffic are marked to specific classes and tracked by a self adaptive fair scheduler to control and adjust traffic weights).

Regarding claim(s) 7, 13 and 24, Wu discloses dropping target traffic until the time interval represented by the scaled second value has elapsed (Fig. 5, specific profiling is used to drop traffic as desired).

Regarding claim(s) 8, 14 and 25 Wu discloses permitting target traffic through the port after the time interval represented by the scaled second value has elapsed (Fig. 6, target traffic is dynamically adjusted for different times).

Regarding claim(s) 9, 15, Wu discloses receiving the first value representing an allowed amount of broadcast, multicast, or destination unknown traffic (Fig. 5, TCP or UDP Kbps values representing allowed amount of target traffic).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wu et al ( US 2004/0177087 A1) as applied to claim 16 above, and further in view of Jones et al (USP 5,991,271).

Wu fails to explicitly disclose UTP and/or STP cabling for communications.

Art Unit: 2616

Jones discloses UTP and/or STP cabling for communications (col 1 lines 15-24). The use of different cablings allows for designers to accommodate cost and transmission parameters as desired. Thus it would have been obvious at the time the invention was made to incorporate the teachings of Jones within Wu so as to provide a varied transmission medium to accommodate cost and transmission parameters as desired.

### ***Allowable Subject Matter***

Claims 4, 11 and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raj K. Jain whose telephone number is 571-272-3145. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on 571-272-3179. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

Art Unit: 2616

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

***Raj K. Jain***

***/Raj K. Jain/***

***Art Unit 2616***

October 19, 2007